

CONGRESSIONAL RECORD SUMMARY

Friday, July 26, 2002

SENATE

Measures Introduced:

S. 2805. A bill to amend title 23, United States Code, *to provide for criminal and civil liability* for permitting an intoxicated arrestee to operate a motor vehicle; to the Committee on Environment and Public Works.

Corzine

Pages S 7430, S 7431-2

S. 2808. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; *placed on the calendar*.

Murray

Page S 7430

S. 2809. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; *placed on the calendar*.

Landrieu

Page S 7430

S. Con. Res. 132. *A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.*

Daschle

Pages S 7430, S 7435

Measures Reported:

S. 2808, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003. (Senate Report No. 107-224)

S. 2809, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003. (Senate Report No. 107-225)

S. 1992, to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, with an amendment in the nature of a substitute. (Senate Report No. 107-226)

Pages S 7429-30, D 838

Measure Passed:

Adjournment Resolution: Senate agreed to S. Con. Res. 132, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

Pages S 7439, D 838

S. 812. Greater Access to Affordable Pharmaceuticals Act:

Senate continued consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, taking action on the following amendments proposed thereto:

Pages S 7398-S 7413, D 838

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Pages S 7398, D 838

McConnell Amendment No. 4326 (to Amendment No. 4299), to provide for health care liability reform.

Pages S 7398-S 7413, D 839

A unanimous-consent agreement was reached providing for further consideration of the bill on Monday, July 29, 2002.

Page D 839

Nomination--Cloture Vote:

By a unanimous vote of 89 yeas (Vote No. Ex. 193), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close debate on the nomination of ***Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.***

Pages S 7391-6, D 839

Pursuant to the order of July 25, 2002, a vote on confirmation of the nomination will occur at 5:30 p.m., on Monday, July 29, 2002.

Page D 839

Nominations--Agreement:

A unanimous-consent agreement was reached providing for consideration of the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, on Monday, July 29, 2002, with votes to occur thereon; following the disposition of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Pages S 7442, D 839

Nominations Confirmed:

Senate confirmed the following nominations:

Christopher C. Conner, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Gregory Robert Miller, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Kevin Vincent Ryan, of California, to be United States Attorney for the Northern District of California, for the term of four years.

Ray Elmer Carnahan, of Arkansas, to be United States Marshal for the Eastern District of Arkansas for the term of four years.

Theresa A. Merrow, of Georgia, to be United States Marshal for the Middle District of Georgia for the term of four years.

Ruben Monzon, of Texas, to be United States Marshal for the Southern District of Texas for the term of four years.

Pages S 7396-7, S 7443, S 7444, D 839

Nominations Confirmed (Cont'd.):

David Scott Carpenter, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshal for the Southern District of Ohio for the term of four years.

Randall Dean Anderson, of Utah, to be United States Marshal for the District of Utah for the term of four years. (Reappointment)

Pages S 7396-7, S 7443, S 7444, D 839

Congressional Program Ahead. Week Of July 29 Through August 3, 2002:

On Monday, at approximately 5:30 p.m., Senate will vote on confirmation of the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit; following which, Senate will consider the nominations of Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, with votes to occur thereon.

Page D 843

Committee on Governmental Affairs: 7/30/02 @ 9:30 a.m. Permanent Subcommittee on Investigations, to resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was. SD-342.

Committee on Health, Education, Labor, and Pensions: 7/31/02 @ 10:00 a.m. Business meeting to consider **S. 2053**, to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving **and clarifying the vaccine injury compensation program**. SD-430.

Select Committee on Intelligence: 7/31/02 @ 2:30 p.m. To hold hearings to examine **S. 2586**, to exclude United States persons from the definition of "foreign power" under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, and **S. 2659, to amend the Foreign Intelligence Surveillance Act of 1978 to modify the standard of proof for issuance of orders regarding non- United States persons from probable cause to reasonable suspicion**. SDG-50.

Committee on the Judiciary: 7/30/02 @ 10:30 a.m. Subcommittee on Crime and Drugs, to hold hearings to **examine criminal and civil enforcement of environmental laws**. SD-226.

Committee on the Judiciary: 7/31/02 @ 10:00 a.m. **Full Committee, to hold hearings to examine class action litigation issues**. SD-226.

Committee on the Judiciary: 7/31/02 @ 1:30 p.m. Full Committee, to hold hearings on **S. 2619**, to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. SD-226.

Committee on the Judiciary: 8/1/02 @ 2:00 p.m. **Full Committee, to hold hearings on pending judicial nominations**. SD-226.

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Remarks:

The Federalist Society: Setting The Record Straight.

"...For the vast majority of Americans, these are not controversial issues. Rather, they are basic Constitutional assertions that are essential to the survival of our republic. They are truths that have united Americans for more than two centuries. Recently we have seen the emergence of some groups that seek to undermine the third of these ideas--that judges should not write laws. These groups have attempted to use the judiciary to circumvent the democratic process and impose their minority views on the American people. This judicial activism is a nefarious practice that seeks to undermine the principle of democratic rule. It results in an unelected oligarchy, government by a small elite. Judicial activism imposes the will of a small group of politicized lawyers upon the American people and undermines the work of the people's representatives. Indeed, if the radical left is successful, if we continue to appoint judges that are committed to writing law and not interpreting it, than all of us can just go home..."

Hatch

Pages S 7421-2

Accounting Reform.

*"... Our bill also directed the **U.S. Sentencing Commission** to review our existing Federal sentencing guidelines. As you know, the sentencing guidelines carefully track the statutory maximum penalties that Congress sets for specific criminal offenses. Our bill requires the sentencing commission to go back and recalibrate the sentencing guidelines to raise penalties for the white collar offenses affected by this legislation..."*

Biden

Pages S 7426-7

HOUSE

Bills Introduced:

H.R. 5243. A bill *to promote rural safety and improve rural law enforcement*; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Carson

Page H 5993

H.R. 5248. A bill *to provide legal exemptions for certain activities of the National Park Service, United States Forest Service, United States Fish and Wildlife Service, or the Bureau of Land Management undertaken in federally declared disaster areas*; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Hayworth

Page H 5993

H.R. 5252. A bill *to protect the Social Security trust funds by ensuring that the Government repays its debts to the trust funds*; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Waxman

Page H 5993

Bills Introduced (Cont'd.):

H.R. 5253. A bill *to modify the antitrust exemption applicable to the business of medical malpractice*

insurance, to address current issues for health care providers, to reform medical malpractice litigation by making available alternative dispute resolution methods, requiring plaintiffs to submit affidavits of merit before proceeding, and enabling judgments to be satisfied through periodic payments, to reform the medical malpractice insurance market, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Sandlin *Pages H 5993-94*

H.R. 5254. A bill *to require the Secretary of Education to provide assistance to the immediate family of a teacher or other school employee killed in an act of violence while performing school duties; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Hastings *Page H 5994*

H.R. 5257. A bill *to provide private school parity with public schools in obtaining criminal background checks of employees, volunteers, and applicants, and for other purposes; to the Committee on Education and the Workforce.*

Fletcher *Page H 5994*

H.R. 5259. A bill *to reform Federal budget procedures to restrain congressional spending, foster greater oversight of the budget, account for accurate Government agency costs, and for other purposes; referred to the Committee on the Budget, for a period ending not later than August 31, 2002, and in addition to the Committee on Ways and Means, the committee on Rules and the Committee on Government Reform, for a period to be determined subsequently by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Ryan *Page H 5994*

H.R. 5262. A bill *to create a separate DNA database for violent predators against children, and for other purposes; to the Committee on the Judiciary.*

Jackson-Lee *Page H 5994*

H.R. 5264. A bill *to amend the Internal Revenue Code of 1986 to deter the smuggling of tobacco products into the United States, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Doggett *Page H 5994*

H.R. 5281. A bill *to provide temporary legal exemptions for certain land management activities of the Federal land management agencies undertaken in federally declared disaster areas; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Flake *Page H 5995*

Bills Introduced (Cont'd.):

H.R. 5288. A bill *to reaffirm the historic treatment of part-time commuter students from Canada and*

Mexico as temporary visitors for purposes of entry into the United States; to the Committee on the Judiciary.

LaFalce *Page H 5995*

H.R. 5292. A bill *to improve Federal agency oversight of contracts and assistance and to strengthen accountability of the government-wide debarment and suspension system*; to the Committee on Government Reform.

Maloney *Page H 5996*

H.R. 5294. A bill *to accord honorary citizenship to the alien victims of the September 11, 2001, terrorist attacks against the United States and to provide for the granting of citizenship to the alien spouses and children of certain victims of such attacks*; to the Committee on the Judiciary.

Maloney *Page H 5996*

H.R. 5296. A bill *to revive the system of parole for Federal prisoners*; to the Committee on the Judiciary.

Mink *Page H 5996*

H.R. 5298. A bill *to provide for reform relating to Federal employee career development and benefits, and for other purposes*; to the Committee on Government Reform.

Morella *Page H 5996*

H.R. 5307. A bill *to provide for the use of COPS funds for State and local intelligence officers*, and for other purposes; to the Committee on the Judiciary.

Saxton *Page H 5996*

H.R. 5313. A bill *to provide incentives for States to have in effect laws mandating the reporting of child abuse by certain individuals*, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Waters *Page H 5996*

Reports Filed:

Reports were filed today as follows:

Conference report on H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act (**H. Rept. 107- 624**);

H. Res. 509, waiving points of order against the conference report to accompany **H.R. 3009**, to extend the Andean Trade Preference Act and to grant additional trade benefits under that Act (**H. Rept. 107-625**).

Pages H 5888-H 5957, H 5962, H 5993, D 840-41

Executive Communications:

EC - 8355. A letter from the Director, Regulations and Forms Services Division, Department of Justice, transmitting the Department's final rule -- *Powers of the Attorney General to Authorize State or Local Law*

Enforcement Officers to Exercise Federal Immigration Enforcement Authority During a Mass Influx of Aliens [INS No. 1924-98; AG Order No. 2601-2002] (RIN: 1115-AF20) received July 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

Page H 5992

H.R. 5005 - Homeland Security Act:

The House passed H.R. 5005, to establish the Department of Homeland Security by a recorded vote of 295 ayes to 132 noes, Roll No. 367. The bill was also debated on July 25.

Pages H 5793-H 5845, H 5845-88, D 841

Agreed to the DeLauro motion to recommit the bill to the Select Committee on Homeland Security with instructions to report it back forthwith with an amendment that prohibits contracting with corporate expatriates by a recorded vote of 318 ayes to 110 noes, Roll No. 366. Subsequently, Majority Leader Arney reported the bill back to the House with the amendment and the amendment was agreed to.

Pages H 5885-87, D 841

Agreed To:

Rogers of Kentucky Amendment No. 14 printed in H. Rept. 107-615, debated on July 25, that gives permissive authority to the Secretary to establish and operate a permanent Joint Interagency Homeland Security Task Force.

Pages H 5799-H 5800, D 841

Shays Amendment No. 17 printed in H. Rept. 107-615 that protects the union rights of employees transferred into the Department of Homeland Security and allows the President to exempt applications where there would be a substantial adverse impact on the Department's ability to protect homeland security (agreed to by a recorded vote of 229 ayes to 201 noes, Roll No. 356).

Pages H 5800-04, D 841

Quinn amendment No. 19 printed in H. Rept. 107-615 that requires collaboration with employee representatives in the planning, development, and implementation of any human resources management system (agreed to by a recorded vote of 227 ayes to 202 noes, Roll No. 358).

Pages H 5809-13, D 841

Arney en bloc manager's amendment No. 21 printed in H. Rept. 107-615 that includes various technical amendments and amendments requested by the Committees on Energy and Commerce, Science, Transportation and Infrastructure, Agriculture, Appropriations, and Government Reform (agreed to by a recorded vote of 222 ayes to 204 noes, Roll No. 361).

Pages H 5817-29, H 5837-38, D 841

Chambliss amendment No. 26 printed in H. Rept. 107-615, as modified, that establishes the Homeland Security Information Sharing Act to facilitate the sharing of security information.

Pages H 5854-61, D 841

Rejected:

Waxman Amendment No. 3 printed in H. Rept. 107-615 that sought to codify and strengthen the White House Office of Homeland Security which was established in Executive Order 13228 (rejected by a recorded vote of 175 ayes to 248 noes, Roll No. 352).

Pages H 5793-98, D 841

Cardin Amendment No. 8 printed in H. Rept. 107-615, debated on July 25, that sought to preserve the Customs Service as a distinct entity within the Department of Homeland Security (rejected by a recorded vote of 177 ayes to 245 noes, Roll No. 354).

Pages H 5799, D 841

H.R. 5005 - Homeland Security Act (Cont'd.):

Morella amendment No. 18 printed in H. Rept. 107-615 that sought to protect the rights of union employees who are transferred into the Department of Homeland Security with the same job responsibilities (rejected by a recorded vote of 208 ayes to 222 noes, Roll No. 357).

Pages H 5804-09, D 841

Turner amendment No. 22 printed in H. Rept. 107-615 that sought to indemnify companies who sell anti-terrorism technologies to Federal, state, and local governments (rejected by a recorded vote of 214 ayes to 215 noes, Roll No. 359).

Pages H 5829-36, D 841

Waxman amendment No. 20 printed in H. Rept. 107-615 that sought to strike section 761 which establishes a human resources management system and inserts various provisions including the authority for the Director to adjust pay schedules except that employees transferred to the Department of Homeland Security may not have their pay reduced, provides for suspension and removal of employees in the interests of national security; and provides remedies for retaliation against whistleblowers (rejected by a recorded vote of 208 ayes to 220 noes, Roll No. 360).

Pages H 5813-17, H 5837, D 841

Oberstar amendment No. 23 printed in H. Rept. 107-615 that sought to strike section 409 which extends the deadline to fully utilize explosive detection systems to screen all checked baggage to December 31, 2003 (rejected by a recorded vote of 211 ayes to 217 noes, Roll No. 362).

Pages H 5838-45, H 5868-69, D 841

Schakowsky amendment No. 24 printed in H. Rept. 107-615 that sought to strike subtitle C of title VII, the Critical Infrastructure Information Act, and to strike section 762, Advisory Committees, and to insert a new section dealing with remedies for retaliation against whistleblowers (rejected by a recorded vote of 188 ayes to 240 noes, Roll No. 363).

Pages H 5845-50, H 5869, D 841

Tom Davis of Virginia amendment No. 25 printed in H. Rept. 107-615 that sought to define the term “covered Federal agency,” for purposes of exemption from disclosure under the Freedom of Information Act, to mean the Department of Homeland Security and agencies with which the Department shares critical infrastructure information (rejected by a recorded vote of 195 ayes to 233 noes, Roll No. 364).

Pages H 5850-53, H 5869-70, D 841-42

Weldon of Florida amendment No. 27 printed in H. Rept. 107-615 that sought to transfer the visa office of the Bureau of Consular Affairs of the Department of State to the Department of Homeland Security (rejected by a recorded vote of 118 ayes to 309 noes, Roll No. 365).

Pages H 5861-65, H 5870-71, D 842

Rejected the Murtha motion that the Committee rise and strike the enacting clause by voice vote.

Pages H 5871-72, D 842

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill.

Page H 5888, D 842

H. Res. 502, the rule that provided for consideration of the bill was agreed to on July 25. Recess: the House recessed at 9:56 p.m. and reconvened at 11:15 p.m.

Pages H 5888, D 842

H.R. 3210 - Terrorism Risk Protection Act--Go To Conference:

The House disagreed with the Senate amendment to H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, and agreed to a conference. Appointed as conferees: From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference: Chairman Oxley and Representatives

Baker, Ney, Kelly, Shays, Fossella, Ferguson, LaFalce, Kanjorski, Bentsen, Maloney of Connecticut, and Hooley. From the Committee on the Judiciary, for consideration of section 15 of the House bill and sections 10 and 11 of the Senate amendment thereto, and modifications committed to conference: Chairman Sensenbrenner and Representatives Goodlatte and Conyers (The Chair announced that Representative Goodlatte had replaced Representative Coble as a conferee).

Pages H 5962, H 5969, D 842

H.R. 3009 - Trade Act of 2002:

The House agreed to the conference report on H.R. 3009, to extend the Andean Trade Preference Act and to grant additional trade benefits under that Act by a yeas-and-nays vote of 215 yeas to 212 nays, Roll No. 370.

Pages H 5969-86, D 842

The House agreed to H. Res. 509, the rule waiving points of order against consideration of the conference report by a yeas-and-nays vote of 220 yeas to 200 nays, Roll No. 369.

Pages H 5962-69, D 842

Earlier agreed to H. Res. 507, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules by a yeas-and-nays vote of 217 yeas to 207 nays, Roll No. 368.

Pages H 5888, H 5957-61, D 842

S. Con. Res. 132 - Summer District Work Period:

The House agreed to S. Con. Res. 132, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives. Subsequently read a letter from the Speaker wherein he appointed Majority Leader Armey, pursuant to section 2 of **S. Con. Res. 132**, to act jointly with the Majority Leader of the Senate or his designee, in the event of his death or inability to notify the Members of the House and the Senate, respectively.

Pages H 5986-87, D 842

Committee Meetings:

Committee on Energy and Commerce: Held a hearing entitled "*Oath Taking, Truth Telling, and Remedies in the Business World.*" Testimony was heard from public witnesses.

Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy, and Human Resources approved for full Committee action an oversight report entitled: "*Federal Law Enforcement at the Borders and Ports of Entry: Challenges and Solutions.*"

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the *Trade Act of 2002 conference report* and against its consideration. The rule provides that the conference report shall be considered as read.

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Next SENATE MEETING: Monday, 4:00 p.m., July 29, 2002.

Next HOUSE MEETING: Wednesday, 2:00 p.m., September 4, 2002.

OLA: S. Schwarz, A. Santos